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The Commonwealth of Massachusetts.

THE MASSACHUSETTS LAWS
RELATING TO INSANE PERSONS

REVISED AND CODIFIED.

JUNE, 1909.

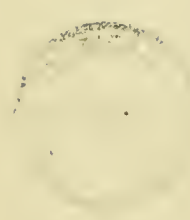
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Under the provisions of chapter 62 of the Resolves of the year 1908, a commission, consisting of George T. Tuttle, M.D., Henry R. Stedman, M.D., and James F. Curtis, Esq., was appointed to revise and codify the laws relating to insane persons.

Chapter 504, Acts of 1909.

AN ACT
TO
REVISE AND CODIFY THE LAWS
RELATING TO
INSANE PERSONS.

Be it enacted, etc., as follows:

CARE AND CONTROL OF THE INSANE, FEEBLE-MINDED,
EPILEPTIC, ETC. — SECTION 1.

Care of the
insane,
feeble-minded,
epileptic, etc.
1900, 451.
R. L. 87.
§§ 6, 109.
1903, 321.
1908, 613, 629.

SECTION 1. The commonwealth shall have the care, control and treatment of all insane, feeble-minded and epileptic persons, and of persons addicted to the intemperate use of narcotics or stimulants, the care of whom is vested in the commonwealth by the provisions of law in force on the date of the passage of this act, or of any such person who shall thereafter be received into any institution or receptacle owned or maintained by the commonwealth for the care of such persons. No county, city or town shall establish or maintain any such institution or receptacle, or be liable for the board, care, treatment or act of any inmate thereof.

STATE BOARD OF INSANITY. — SECTIONS 2-13.

State board
of insanity.
R. L. 87, § 1.

SECTION 2. There shall be a state board of insanity consisting of five persons, at least two of whom shall be experts in insanity. One member shall annually be appointed by the governor, with the advice and consent of the council, for a term of five years, and any member may for cause be removed in like manner. The members of

the board shall receive no compensation, but they shall be paid the necessary expenses actually incurred by them in the performance of their official duties.

SECTION 3. The board shall appoint an executive officer, who shall be a physician and an expert in insanity, and who may be a member of the board. He shall hold the position of executive officer during the pleasure of the board and shall perform such duties as it requires. He shall receive from the commonwealth such compensation as the governor and council may determine, and the necessary expenses incurred by him in the performance of his official duties.

Executive officer.
R. L. 87, § 2.

SECTION 4. The board may appoint agents and subordinate officers and fix their compensation, but the amount paid for their salaries shall not exceed the appropriation of the general court for that purpose. The board may delegate any of its powers and duties to, and may execute any of its functions by, agents appointed for that purpose or by committees of the board. The board shall hold meetings each month, and oftener if necessary. It shall make its own by-laws, and shall annually report its doings to the governor and council on or before the third Wednesday in March, the report being made up to and including the thirtieth day of November.

Agents, meetings, report.
R. L. 87, § 3.
Fiscal year.
1905, 211.

SECTION 5. The report shall contain a properly classified and tabulated statement of the receipts and expenses of the board and of each of the several state institutions under its supervision for said year, and a corresponding classified and tabulated statement of their estimates for the year ensuing, including estimates for the ordinary expenses, with its opinion as to the necessity or expediency of appropriations in accordance with said estimates; a concise review of the work of the several institutions under the supervision of the board, for the year preceding, and such suggestions and recommendations as to said institutions and as to the general interests of all persons under its supervision as it considers expedient, and information embodying the experience of this country and other countries relative to the best and most successful methods of caring for such persons as come under the supervision of the board.

Contents of report.
R. L. 87, § 4.
1906, 184.

SECTION 6. The board shall encourage scientific investigation by the medical staffs of the various institu-

Duties of board.
R. L. 87, § 5.

tions under its supervision, shall publish from time to time bulletins and reports of the scientific and clinical work done therein, and shall prescribe to the superintendents or managers of the several institutions under its supervision the forms of, and periods covered by, the statistical returns to be made by them in their annual reports.

General supervision.
R. L. 87,
§§ 6, 9.
1908, 613, 620.

SECTION 7. The board shall have general supervision of all public and private institutions and receptacles for insane, feeble-minded or epileptic persons or for persons addicted to the intemperate use of narcotics or stimulants, and the Hospital Cottages for Children, and when so directed by the governor may assume and exercise the powers of the board of trustees of said state institutions in any matter relative to the management thereof. The board shall have the same powers relative to state charges in institutions or other places under its supervision and to their property as are vested in towns and overseers of the poor relative to paupers supported or relieved by towns.

Approval of plans, etc.
R. L. 87, § 7.
1906, 508, § 10.
1907, 520.

SECTION 8. The board shall inspect and approve all plans and specifications for new buildings which are to be used by the commonwealth as institutions coming under the supervision of the board, and for the extension or alteration, involving the expenditure of more than two thousand dollars, of existing buildings which are to be or are already so used, before any such new building is erected or any such extension or alteration is made, in accordance with the provisions of chapter five hundred and twenty of the acts of the year nineteen hundred and seven.

Board to be commissioners of insanity.
R. L. 87, § 8.

SECTION 9. The board shall act as commissioners of insanity, with power to investigate the question of the insanity and condition of any person who is an inmate of any institution for the insane, public or private, or restrained of his liberty by reason of alleged insanity at any place within the commonwealth, and shall discharge any such person, if in its opinion he is not insane or can be cared for after such discharge without danger to others and with benefit to himself. All questions as to the sanity of inmates of the penal, reformatory and other institutions of the commonwealth who present indications of insanity shall be referred to and determined by the board, except as is otherwise provided by law.

Visitations by board.
R. L. 87, § 9.

SECTION 10. The board shall visit every institution under its supervision at least twice a year. It shall as-

certain by actual examination and inquiry whether the laws relative to the persons in custody and control thereof are properly observed, shall give such directions as will insure correctness in the returns required relative to them, and may use such means as may be necessary to collect all desired information. The board shall carefully inspect every part of the institution visited with reference to its cleanliness and sanitary condition, the number of patients in seclusion or restraint, the dietary of the patients and any other matters which it may consider worthy of observation, and shall offer an opportunity to every patient for an interview with its visiting members or agents. A report of every such visit shall be presented at the next meeting of the board, following which report the board may make such recommendations to the trustees or superintendent of the institution as it may deem expedient.

SECTION 11. The board shall prescribe the forms of application, medical certificate and order of commitment required by law in the commitment and admission of all persons to the institutions under its supervision, which shall be the sole forms used in such commitments and admissions. It shall keep records of all such commitments and admissions and shall secure compliance with the provisions of law relative thereto, and shall investigate the propriety of any commitment or admission, notice whereof is received under the provisions of sections twenty-seven or forty-six.

To prescribe forms, etc.
R. L. 87,
§§ 36-38.

SECTION 12. If the board has reason to believe that an insane, epileptic or feeble-minded person who is a proper subject for treatment or custody in an institution for the insane, epileptic or feeble-minded, is confined in an almshouse or other place at the public charge or otherwise, it shall cause application to be made to a judge for the commitment of such person to an institution under its supervision.

To apply for commitment.
R. L. 87, § 51.
1908, 629.

SECTION 13. The board and the boards of trustees of the state institutions under its supervision, or their representatives, shall meet semi-annually for consultation and harmonious action.

Semi-annual meetings.
R. L. 87, § 11.

STATE INSTITUTIONS. — SECTIONS 14-23.

SECTION 14. The titles of the institutions established by or under the authority of chapter one hundred and

Titles of institutions.
R. L. 87,

§§ 13, 16.
1905, 400.
1906, 313. 508.
1907, 421.
1908, 613.

thirty-three of the resolves of the year eighteen hundred and thirty, chapter two hundred and fifty-one of the acts of the year eighteen hundred and fifty-one, chapter four hundred and fifty-four of the acts of the year eighteen hundred and fifty-five, chapter two hundred and thirty-nine of the acts of the year eighteen hundred and seventy-three, chapter two hundred and twenty-seven of the acts of the year eighteen hundred and seventy-seven, chapter three hundred and twenty-two of the acts of the year eighteen hundred and eighty-four, chapter four hundred and fourteen of the acts of the year eighteen hundred and eighty-nine, chapter four hundred and twenty-five of the acts of the year eighteen hundred and ninety-two, chapter four hundred and eighty-three of the acts of the year eighteen hundred and ninety-five, chapter four hundred and fifty-one of the acts of the year nineteen hundred, chapter five hundred and eight of the acts of the year nineteen hundred and six, and chapter one hundred and thirty-one of the acts of the year eighteen hundred and thirty-nine as altered by chapter six hundred and thirteen of the acts of the year nineteen hundred and eight, shall be respectively Worcester State Hospital, Taunton State Hospital, Northampton State Hospital, Danvers State Hospital, Worcester State Asylum, Westborough State Hospital, Foxborough State Hospital, Medfield State Asylum, Monson State Hospital, Gardner State Colony, Wrentham State School and Boston State Hospital.

Trustees of
state institutions.
R. L. S7,
§§ 14, 18-22.
1902, 542.
1905, 400.
1906, 508, § 1.

SECTION 15. The government of each of the institutions mentioned in the preceding section shall be vested in a board of seven trustees, five of whom shall be men and two of whom shall be women, except that the trustees of the Foxborough state hospital shall all be men. One member shall annually in January, be appointed by the governor, with the advice and consent of the council, for a term of seven years from the first Wednesday of February following. The members of the board may be removed for cause. If under existing laws the number of trustees of any such institution is less than seven, or if the term of office of more than one trustee of any such institution shall expire in any one year, the governor shall as soon as possible without terminating any existing term appoint a suitable number of trustees for such terms as shall quickest result in the expiration of one term annually, in accordance with the above provision.

SECTION 16. The trustees of each institution shall be a corporation for the purpose of taking and holding, by them and their successors, in trust for the commonwealth, any grant or devise of land, and any gift or bequest of money or other personal property, made for the use of the institution of which they are trustees, and for the purpose of preserving and investing the proceeds thereof in notes or bonds secured by good and sufficient mortgages or other securities, with all the powers necessary to carry said purposes into effect. They may expend any gift or bequest, or part thereof, in the erection of new or in the alteration of old buildings on land belonging to the institution, subject to the approval of the state board of insanity, but all such buildings shall belong to the institution and be managed as a part thereof.

Trustees a corporation.
R. L. 87,
§§ 15, 23, 24.
1906, 50S, § 4.

SECTION 17. The trustees of each institution shall have charge of the general interests thereof, and shall see that its affairs are conducted according to law and to the by-laws and regulations established by them. They shall receive no compensation, but they shall be reimbursed all necessary expenses actually incurred in the performance of their official duties.

Trustees, powers and duties.
R. L. 87,
§§ 15, 26.
1906, 50S, § 2.

SECTION 18. They shall appoint a superintendent who shall be a physician and who shall constantly reside at the institution, assistant physicians, one of whom in each institution for the insane in which women are received as patients and in which more than two assistant physicians are employed shall be a woman, and a treasurer who shall give bond for the faithful performance of his duties; shall appoint or make provision in by-laws for appointing such officers as in their opinion may be necessary for conducting efficiently and economically the business of the institution; and shall determine, subject to the approval of the governor and council, the salaries of all the officers. All their appointments shall be made in such a manner, with such restrictions and for such terms, as the by-laws may prescribe. The superintendent and assistant physicians at the Westborough state hospital shall belong to the homœopathic school of medicine. The trustees shall also establish by-laws and regulations, with suitable penalties, for the government of the institutions, and shall provide for a monthly inspection and trial of the fire apparatus belonging to the institutions and for the proper organiza-

Trustees to make by-laws, etc.
R. L. 87,
§§ 15, 27.
1906, 50S,
§§ 2, 6.

tion and monthly drill of the officers and employees in its use.

Annual
inventory.
R. L. 87,
§§ 15, 28.
1905, 211.
1906, 508, § 3.

SECTION 19. They shall annually on the thirtieth day of November, cause to be made and sent to the said board on or before the third Wednesday in December an accurate inventory of the stock and supplies on hand and the amount and value thereof at said institutions.

Visitation of
institutions,
annual meet-
ing, reports.
R. L. 87,
§§ 15, 29.
1905, 211.
1906, 508, § 3.
1908, 597, § 4.

SECTION 20. There shall be thorough visitations of each institution by two of the trustees thereof monthly, and by a majority of them quarterly, and by the whole board semi-annually, at each of which a written account of the condition of the institution shall be prepared, which shall be presented at the annual meeting to be held in December. At the annual meeting a full and detailed report shall be made of the condition of the institution and all its affairs, with a list of its salaried officers and their salaries, and a copy of the inventory required by the preceding section, to be laid before the governor and council on or before the third Wednesday of December, for the use of the government. The treasurer shall, at the same meeting, present to the trustees his annual report. Both reports shall be made up to the thirtieth day of November, inclusive, except as may otherwise be provided by the board under the provisions of section six. The trustees shall transmit the report of the treasurer with their annual report to the governor and council.

Worcester
State Asylum.
R. L. 87, § 84.

SECTION 21. The trustees of the Worcester state hospital shall have the same authority relative to the management and government of the Worcester state asylum, the care of the inmates, and the collection and disbursement of money for and on account of it, and to the same extent, as if the Worcester state asylum were a part of the Worcester state hospital.

Books, ac-
counts, etc.
R. L. 87, § 30.
1906, 508, § 3.
1908, 195.

SECTION 22. The treasurer and disbursing officer shall maintain an office at the institution where all the books, accounts and vouchers shall be kept. The books of the respective institutions shall be their books and shall show all receipts and disbursements on account of the same and shall at all times be open to the inspection of the trustees.

Land not to
be taken.
R. L. 87, § 17.
1906, 508, § 5.

SECTION 23. The land now or hereafter held by the trustees of any of the institutions mentioned in section fourteen, in trust for the commonwealth for the use of such

institution, shall not be taken for a street, highway, railway or railroad without leave by the general court specially obtained.

PRIVATE INSTITUTIONS. — SECTIONS 24, 25.

SECTION 24. The governor and council may, upon the recommendation of the state board of insanity, license any suitable person to establish and keep a hospital or private house for the care and treatment of the insane, epileptic, feeble-minded, and persons addicted to the intemperate use of narcotics or stimulants, and may at any time revoke such license. No such recommendation shall be made unless the said board is satisfied that the person applying therefor is a duly qualified physician, as provided in section thirty-two, and has had practical experience in the care and treatment of such patients. Any person owning or maintaining such a hospital or private house on the date of the passage of this act shall be entitled to maintain the same under the provisions of law in force at that time, except that every such hospital or house shall be subject to the visitation and supervision of the state board of insanity.

Private hospitals may be licensed.
R. L. 87,
§ 111.

SECTION 25. Whoever establishes or keeps such a hospital or private house without a license, unless otherwise authorized by law, shall forfeit not more than five hundred dollars.

Penalty.
R. L. 87,
§ 112.

GENERAL REQUIREMENTS FOR ALL INSTITUTIONS. — SECTIONS 26, 27.

SECTION 26. Every institution under the supervision of the state board of insanity, shall be provided with proper means of escape from fire and suitable apparatus for the extinguishment of fire, and no such building shall be erected or maintained without a written certificate of approval from the inspector of factories and public buildings of the district police for the district in which it is to be erected or maintained.

Fire apparatus and escapes.
R. L. 87, § 25.
1906, 508, § 6.

SECTION 27. The trustees, superintendent or manager of any institution under the supervision of the state board of insanity shall furnish all the information required by the said board, and shall immediately notify the board if there is any question as to the propriety of the commitment of any person received therein.

To furnish information.
R. L. 87,
§§ 15, 36, 38.
1906, 508, § 8.

COMMITMENTS AND ADMISSIONS. — SECTIONS 28-49.

Hospital
districts.
R. L. 87,
§§ 31, 32.

SECTION 28. The state board of insanity shall divide the state into districts which it may change from time to time, from each of which the insane, epileptic and feeble-minded shall be committed to certain specified state hospitals or schools, except such as are committed to the Westborough state hospital under the provisions of section thirty-five, or to any state hospital when the expense of their support is paid by themselves or their friends, or upon the written approval of the said board, and also except such as may be committed or admitted to the McLean Hospital, or to any licensed private hospital or house.

Commitment
of insane
persons.
R. L. 87, § 33.
1904, 459, § 1.
1905, 447.

SECTION 29. Either of the judges of probate for the county of Suffolk, the judge of probate for the county of Nantucket or a justice of a police, district or municipal court, except the municipal court of the city of Boston, within his county, may commit to any hospital or receptacle for the insane, public or private, designated by the state board of insanity, in accordance with the provisions of the preceding section, any insane person then residing or being in said county, who in his opinion is a proper subject for its treatment or custody. No special justice of a police, district or municipal court, shall make a commitment except in case of the absence or incapacity of the justice, or other emergency.

Order of
commitment.
R. L. 87, § 34.
1908, 613.

SECTION 30. No person shall be committed to any hospital or receptacle for the insane, public or private, unless there has been filed with the judge a certificate of the insanity of such person by two physicians as provided in section thirty-two, nor without an order therefor, signed by one of the judges named in the preceding section, stating that the judge finds that the person committed is insane and is a proper subject for treatment in a hospital for the insane and either that he has been an inhabitant of the commonwealth for the six months immediately preceding such finding or that provision satisfactory to the state board of insanity has been made for his maintenance or that by reason of insanity he would be dangerous if at large. The order of commitment shall also authorize the custody of the insane person either at the hospital to which he shall first be committed or at some other hospital or receptacle to which he may be transferred. Said judge

shall see and examine the alleged insane person, or state in his final order the reason why it was not considered necessary or advisable so to do. The hearing, unless a jury is summoned, shall be at such place as the judge shall appoint. In all cases the judge shall certify in what place the insane person resided at the time of his commitment; or if the commitment is ordered by a court, the court shall certify in what place the insane person resided at the time of the arrest upon the charge for which he was held to answer before such court; and such certificate shall, for the purposes of the preceding section, be conclusive evidence of his residence.

SECTION 31. If in the opinion of the judge additional medical testimony as to the mental condition of the alleged insane person is desirable, he may appoint a third physician to examine and report thereon. The fee for making such examination and report shall be the same as is provided for making a certificate under the provisions of section forty-eight.

Examination
by third
physician.

SECTION 32. A physician shall not make a certificate of insanity unless he makes oath that he is a graduate of a legally chartered medical school or college, that he has been in the actual practice of medicine for three years since his graduation and for three years last preceding the making of said oath, and that he is registered in accordance with the provisions of chapter seventy-six of the Revised Laws, nor unless his standing, character and professional knowledge of insanity are satisfactory to the judge. A physician who makes such certificate shall have examined the alleged insane person within five days of his signing and making oath to the certificate, and shall state therein that in his opinion such person is insane and a proper subject for treatment in a hospital for the insane, and the facts on which his opinion is based. A copy of the certificate, attested by the judge, shall be delivered with the insane person to the superintendent of the hospital or receptacle to which the person shall have been committed, to be kept on file with the order of commitment, and he shall forthwith transmit to the state board of insanity copies of such certificate, of the statement required by the provisions of section thirty-three and of the order of commitment. A certificate bearing date more than ten days prior to the commitment of any person

Qualifications
of physician
certifying to
insanity.
R. L. 87, § 35.
1906, 418.

alleged to be insane shall be void, and no certificate shall be valid or received in evidence if signed by a physician holding any office or appointment, other than that of consulting or advisory physician, in a hospital or receptacle for the insane to which such person is committed.

Statement
with appli-
cation for
commitment,
etc.
R. L. 87, § 39.
1905, 436.

SECTION 33. Upon every application for the commitment or admission of a person as a patient to an institution described in section seven a statement in a form prescribed by the state board of insanity shall be filed with the application, or within ten days after the commitment or admission, giving as nearly as can be ascertained the facts therein required. A copy of the statement shall be transmitted to the superintendent of the institution and filed with the order of commitment or the application for admission. The superintendent shall in the case of insane persons, within two days after the reception of such patient, send notice of his commitment or admission by mail, postage prepaid, to all persons whose addresses appear on the said statement, and to any other two persons whom the patient may designate.

Apprehension
of alleged
insane person.
R. L. 87, § 41.

SECTION 34. After hearing such evidence as he may consider sufficient, the judge may, either before or after the certificate required by section thirty has been filed, issue a warrant for the apprehension and bringing before him of the alleged insane person, if in his judgment the condition or conduct of such person renders it necessary or proper so to do. The warrant may be directed to and served by a qualified officer or by a private person named in the warrant; and pending examination and hearing, such order may be made relative to the care, custody or confinement of such alleged insane person as the judge shall see fit.

Homœopathic
treatment.
R. L. 87, § 40.

SECTION 35. In making a commitment of an insane person, the judge shall inquire of the applicant for his commitment whether he desires the insane person to be treated according to homeopathic principles of medicine, and if he does, such insane person shall be committed to the Westborough state hospital in preference to any other place, if that hospital is capable of receiving him; and inmates of other state hospitals for the insane desiring homeopathic treatment, or for whom such treatment is desired by their families or by the applicant for their commitment, may be transferred by the state board of insanity to the Westborough state hospital.

SECTION 36. The judge may, in his discretion, issue a warrant to the sheriff or his deputy, directing him to summon a jury of six men to hear and determine whether the alleged insane person is insane.

Summoning of jury.
R. L. 87, § 42.

SECTION 37. The jurors shall be selected in equal numbers from the place in which the trial is had and one or two adjoining places, as the judge shall order. The jurors shall be selected and impaneled as provided in chapter forty-eight of the Revised Laws, and in the counties of Suffolk and Nantucket they may all be taken from one place.

Selection and impaneling of jury.
R. L. 87, § 43.

SECTION 38. The judge shall preside at such trial, and administer to the jury an oath faithfully and impartially to try the issue, and the verdict of the jury shall be final.

Judge to preside; verdict.
R. L. 87, § 44.

SECTION 39. If by reason of challenges or otherwise there is not a full jury of the persons summoned, the judge shall cause the officer who served the summons, or in his absence the officer attending the jury, to return persons to supply the deficiency; and shall have the same authority as the supreme judicial court to enforce the attendance of jurors and witnesses and to impose fines for non-attendance.

Deficiency in jury, how supplied.
R. L. 87, § 45.

SECTION 40. The officer who summons and attends the jury shall receive therefor four cents a mile for all necessary travel, and one dollar and fifty cents for each day that he attends upon them; and the jurors and witnesses shall be entitled to such compensation as is prescribed for jurors and witnesses in the supreme judicial court.

Fees of officers, jurors and witnesses.
R. L. 87, § 46.

SECTION 41. Each judge shall keep a docket or record of the causes relative to insane persons coming before him, numbered or otherwise properly designated, and the disposition thereof. He shall also receive and keep on file the original application, statement of applicant and certificate of physicians, and the copy of the order of commitment, attested by, and with the return thereon of, the officer or other person serving the same. Said docket or record and other documents required to be kept as above shall be transmitted, on the death, resignation or removal of the judge to his successor in office.

Judge to keep docket, original application, etc.
R. L. 87, § 47.
1904, 459, § 2.

SECTION 42. The superintendent or manager of any hospital for the insane, public or private, may without an order of a judge as provided in sections twenty-nine

Commitment of persons violently insane, etc.,

without order
of court.
R. L. 87, § 52.

and thirty, receive into his custody and detain in such hospital for not more than five days any person whose case is certified to be one of violent and dangerous insanity or of other emergency by two physicians qualified as provided in section thirty-two by a certificate conforming in all respects to the provisions of said section, which certificate may be filed with a judge, as the certificate required by section thirty. The officers required by section eighty-six, or any member of the district police, shall upon the request of the applicant or of one of the said physicians, cause the arrest and delivery of such a person to such superintendent or manager. The person applying for such an admission shall within five days cause the alleged insane person to be committed or removed from the hospital, and failing thereof be liable to the hospital for the expenses incurred and to a penalty of fifty dollars, which may be recovered by the hospital in an action of contract.

Commitment
pending de-
termination
of insanity.

SECTION 43. If a person is found by two physicians qualified as provided in section thirty-two, to be in such mental condition that his commitment to a hospital for the insane is necessary for his proper care or observation, he may be committed by any of the judges mentioned in section twenty-nine to a state hospital for the insane or to the McLean Hospital, under such limitations as the judge may direct, pending the determination of his insanity.

Temporary
care.

SECTION 44. The superintendent of any state hospital for the care, treatment or observation of the insane and the McLean Hospital may receive for temporary care, not exceeding seven days, any person suffering from mental disease, on the written application of his natural or legal guardian or, if there be none, upon the written application of a chief or captain of police, any member of the district police, a selectman, the state board of charity or the state board of insanity, together with the certificate of a physician qualified as provided in section thirty-two, that such temporary care is necessary by reason of mental disease. The person applying for such an admission shall within seven days cause the patient to be committed, provided he does not sign a request to remain under the provisions of section forty-five, or to be removed from the hospital, and failing thereof shall be liable to the hospital for the expenses incurred and to a penalty of fifty dollars, which may be recovered by the hospital in an action of contract.

SECTION 45. The superintendent or manager of any institution, public or private, to which an insane person may be committed, may receive and detain therein as a boarder and patient any person who is desirous of submitting himself to treatment, and who makes written application therefor and whose mental condition is such as to render him competent to make the application. Such person shall not be detained for more than three days after having given notice in writing of his intention or desire to leave the institution. The charges for the support of such person in a state institution shall be governed by the provisions of law applicable to the support of an insane person in such institution, provided the approval of the state board of insanity shall be obtained in writing.

Voluntary patients.
R. L. 87, § 53.
1905, 432, § 1.

SECTION 46. If a patient is received into any such institution under the provisions of the four next preceding sections, the superintendent or manager thereof shall give immediate notice of such reception to the state board of insanity, stating all the particulars of the case.

Notice to board of insanity.
R. L. 87, § 54.
1905, 432, § 2.

SECTION 47. If a woman is committed to an institution under the supervision of the board, the committing magistrate shall, unless she is accompanied by a father, husband, brother or son, designate a woman to be an attendant or one of the attendants to accompany her thereto.

Commitment of women.
R. L. 87, § 57.

SECTION 48. Except as is otherwise provided the compensation of the judges, physicians and officers taking part in the commitment or admission of persons to institutions described in section seven in accordance with the provisions of this act, shall be as follows: — The judge, if required to go from his office or place of business to see and examine the person committed or admitted, shall be allowed all necessary expenses of travel. If a special justice hears and determines the application he shall receive compensation at the rate provided in section sixty-nine of chapter one hundred and sixty of the Revised Laws: *provided, however*, that he shall not receive more than four dollars and the necessary expense of travel for each commitment. The fee for each physician making a certificate shall be four dollars, and twenty cents for each mile traveled one way. The fees for officers serving process shall be the same as are allowed by law in like cases.

Compensation of judges, physicians, etc.
R. L. 87,
§§ 48, 73, 118.
1904, 459,
§§ 3, 5.
1906, 508, § 12.

Expenses,
how paid.
R. L. 87,
§§ 49, 73.
1905, 435, 475,
§ 1.
1906, 471.

SECTION 49. All necessary expenses attending the apprehension, examination, trial, commitment or delivery of an alleged insane, epileptic or feeble-minded person, dipsomaniac, inebriate or one addicted to the intemperate use of narcotics or stimulants, shall, if the commitment is to a state institution for such persons, be allowed and certified by the judge and presented as often as once a year to the county commissioners, who shall examine and audit the same; and all necessary expenses attending the apprehension, examination or trial of any such person who if a commitment had been made would have been committed to a state institution for such person, when allowed in the discretion of the judge and certified by him and presented and audited as herein provided, and all expenses of examination and delivery of persons mentioned in section fifty-eight of this act when certified by a judge authorized by law to make commitments in the county in which such person is an inhabitant shall be paid by the county in which such person is an inhabitant. If the person is an inmate of an institution at the time of his commitment, such expenses shall be repaid to such county by the county in which he resided at the time of his admission to the institution, or, if he had no residence, by the county from which he was sent to the institution; and the necessary expenses of returning to a state institution a person temporarily absent therefrom, under the provisions of section seventy-five, shall be paid by such person or his guardian, relative or friend if of sufficient ability, or may be paid by such county, if a new commitment of such person would otherwise be necessary. If application is made for the commitment of a person whose expenses and support are not to be paid by the commonwealth, the said expenses shall be paid by the applicant or by a person in his behalf.

DIPSOMANIACS, INEBRIATES, ETC. — SECTIONS 50-56.

Commitment
of dipsoma-
niacs, etc.
R. L. 87,
§§ 59, 60.
1905, 400.

SECTION 50. Any of the judges named in section twenty-nine may commit to the Foxborough state hospital, the McLean Hospital, or to a private licensed hospital or house, any male, or to any hospital or licensed receptacle, for the insane, public or private, except the Foxborough state hospital, any female, who is subject to dipsomania or inebriety either in public or private

or who is so addicted to the intemperate use of narcotics or stimulants as to have lost the power of self control; but no such commitment shall be made until satisfactory evidence is presented to the judge by whom the proceedings for commitment are heard that such person is not of bad repute or of bad character apart from such habits of intemperance. The magistrate who receives the application for such commitment shall examine on oath the applicant and all other witnesses, shall reduce the application to writing and cause it to be subscribed and sworn to by the applicant. He shall cause a summons and copy of the application to be served upon such person in the manner provided by section twenty-five of chapter two hundred and seventeen of the Revised Laws. Such person shall be entitled to a hearing, unless after receiving said summons he shall in writing waive a hearing; and in that case the magistrate may issue an order for his immediate commitment to said hospital without such hearing if he is of the opinion that such person is a proper subject for its treatment and custody. The commitment may be made forthwith, if the examining physician certifies the case to be one of emergency. A person committed as aforesaid may be detained for two years from the date of his commitment and no longer.

SECTION 51. A person may appeal from the order of commitment as a dipsomaniac or inebriate, or as addicted to the intemperate use of narcotics or stimulants, to the superior court sitting for criminal business in the county from which he is committed, in the manner provided by section twenty-eight of chapter one hundred and fifty-seven of the Revised Laws, but he shall be held in such hospital to abide the final order of the court until he recognizes in the manner provided in section twenty-two of chapter two hundred and nineteen of the Revised Laws, as amended. Upon such appeal the judge who ordered the commitment may bind the witnesses by recognizance as provided in chapter two hundred and seventeen of the Revised Laws, and shall make a copy of the order of commitment and other proceedings in the case and transmit the same with the recognizance, if any, to the clerk of the superior court. If the appellant so requests, an issue or issues shall be framed and submitted to a jury in the superior court.

Appeal from
order of
commitment.
R. L. 87, § 62.

Default for
non-prosecu-
tion of appeal.
R. L. 87, § 63

SECTION 52. If the appellant fails to enter and prosecute his appeal he shall be defaulted on his recognizance, and the superior court may enter an order in like manner as if he had been ordered to be committed by that court; and process may issue, if necessary, to bring him into court to be recommitment.

Withdrawal
of appeal.
R. L. 87, § 64.

SECTION 53. The appellant may at any time before the copy of the proceedings has been transmitted to the superior court be brought personally before the judge from whose order the appeal was taken, and, at his request, may be permitted by the judge in his discretion to withdraw his appeal and abide by the order of said judge, who shall order that the appellant comply with the order appealed from in the same manner as if it were then imposed.

Voluntary
admissions.
1906, 316.

SECTION 54. Any person who is a dipsomaniac or inebriate or addicted to the intemperate use of narcotics or stimulants, who is desirous of submitting himself for treatment in the Foxborough state hospital, or any hospital for the insane, or any hospital or receptacle licensed under the provisions of section twenty-four, and makes written application therefor, may be received by the trustees, superintendent or manager of such hospital or receptacle and detained therein as a boarder and patient. Such person shall not be detained for more than three days after having given notice in writing of his intention or desire to leave the institution. The charges for the support of such person in a state institution shall be governed by the provisions of law applicable to the support of an insane person in said institution, provided the approval of the state board of insanity shall be obtained in writing.

Trustees to
receive in-
sane persons.
1905, 400.

SECTION 55. The trustees of the Foxborough state hospital shall receive and care for, according to law and in separate quarters, such insane persons as may be transferred to that hospital by the state board of insanity.

General laws
applicable.
R. L. 87, § 65.

SECTION 56. The provisions of this chapter relative to the commitment of insane persons to a hospital for the insane shall, unless it is otherwise expressly provided, apply to and govern commitments under the provisions of sections fifty to fifty-three inclusive, except that it shall be specifically alleged that a person who is committed thereunder is a dipsomaniac or inebriate or is so addicted to

the intemperate use of narcotics or stimulants as to have lost the power of self control, instead of alleging that he is insane.

EPILEPTICS. — SECTIONS 57, 58.

SECTION 57. A person of the age of ten years or over who is subject to epilepsy, if he is not a criminal, inebriate or violently insane, may, if insane, be committed to the Monson state hospital, in accordance with the provisions for the commitment of other insane persons, or may, if dangerous to himself or others by reason of epilepsy, be committed thereto in the manner provided for the commitment of dipsomaniacs and inebriates.

Commitment
of epileptics.
R. L. 87, § 66.
1906, 352.
1907, 432.

SECTION 58. The trustees of said hospital may receive and detain therein as a patient any person of the age of ten or over certified to be subject to epilepsy by a physician qualified as provided in section thirty-two, who desires to submit himself to treatment and makes written application therefor, and whose age and mental condition are such as to render him competent to make such application, or for whom application is made by a parent or guardian. No such patient shall be detained more than three months after having given notice in writing of his intention or desire to leave the hospital. Upon the patient's reception at the hospital, the superintendent shall report the particulars of the case to the board of insanity, who may investigate the same.

Voluntary
admissions.
R. L. 87, § 67.
1907, 432.

FEEBLE-MINDED. — SECTIONS 59-65.

SECTION 59. There shall be six trustees, on the part of the commonwealth, of the Massachusetts School for the Feeble-Minded, one of whom shall annually be appointed by the governor, with the advice and consent of the council, for a term of six years.

Trustees of the
Massachusetts
School for the
Feeble-
minded.
R. L. 87,
§ 113.

SECTION 60. The annual appropriation for the support of said school shall be made upon condition that the board of trustees shall be composed of twelve persons, six of whom shall be appointed by the governor, with the advice and consent of the council; and that the said school shall be subject to the same supervision of the state board of insanity as are the state hospitals for the insane. The trustees of said school shall annually prepare and send to the state board of insanity a written or printed

Assistance by
common-
wealth.
Report of
trustees.
R. L. 87,
§§ 114, 122.

report of its proceedings, income and expenditures, properly classified, for the year ending on the thirtieth day of November, stating the amount appropriated by the commonwealth, the amount expended under such appropriation, the whole number and the average number of inmates, the number and salaries of officers and employees, and such other information as the board may require.

Departments.
R. L. 87,
§ 115.
1906, 508, § 14.

SECTION 61. The Massachusetts School for the Feeble-Minded and the Wrentham state school shall each maintain a school department for the instruction and education of feeble-minded persons who are within the school age or who in the judgment of the trustees thereof are capable of being benefited by school instruction, and a custodial department for the care and custody of feeble-minded persons beyond the school age or not capable of being benefited by school instruction.

Reception and
classification
of pupils.
R. L. 87,
§ 116.
1906, 508, § 15.

SECTION 62. Persons received by the Massachusetts School for the Feeble-Minded and by the Wrentham state school shall from time to time be classified in said departments as the trustees shall see fit, and the trustees may receive and discharge pupils at their discretion, and may at any time discharge any pupil or other inmate and cause him to be removed to his home or to the place of his settlement.

Commitments
by court.
R. L. 87,
§ 118.
1904, 459, § 5.
1906, 508, § 12.

SECTION 63. If upon application in writing, a judge of probate finds that a person is a proper subject for the Massachusetts School for the Feeble-Minded or the Wrentham state school, he may commit him thereto by an order of commitment directed to the trustees thereof, accompanied by the certificate of a physician, qualified as provided in section thirty-two, that such person is a proper subject for said institution.

Voluntary
admissions.
R. L. 87,
§ 117.
1906, 508, § 16.

SECTION 64. The trustees of said institutions may at their discretion receive, maintain and educate in the school department, any feeble-minded person from this commonwealth, gratuitously or otherwise, upon application being made therefor by the parent or guardian of such person, which application shall be accompanied by the certificate of a physician, qualified as provided in section thirty-two, that such person is deficient in mental ability, and that in the opinion of the physician he is a fit subject for said school. Special pupils may be received from any other state or province at a charge of not less than three

hundred dollars a year. The trustees may also at their discretion receive, maintain and educate in the school department other feeble-minded persons, gratuitously or upon such terms as they may determine.

SECTION 65. If an inmate of the Massachusetts School for the Feeble-Minded or the Wrentham state school shall have reached the limit of school age or in the judgment of the trustees shall be incapable of being further benefited by school instruction, or if the question of the commitment to or continuance in either of the said schools of any inmate, including inmates who may have been transferred from one department of such school, to another, under the provisions of section sixty-two, is in the opinion of the trustees and of the state board of insanity a proper subject for judicial inquiry, the probate court for the counties of Middlesex and Norfolk, respectively, upon the petition in writing of said trustees, or of said board or of any member of either body, and after such notice as the court may order, may, in its discretion, order such inmate to be brought before the court, and shall determine whether or not he is a feeble-minded person, and may commit him to such school or either department thereof, or may order him to be discharged therefrom.

Judicial inquiry as to inmates.
1906, 309.
1907, 489.

HOSPITAL COTTAGES FOR CHILDREN. — SECTIONS 66, 67.

SECTION 66. The governor, with the advice and consent of the council, shall appoint five trustees of the Hospital Cottages for Children, one of whom shall be appointed annually, who shall hold office for a term of five years from the date of their appointment. They shall serve without compensation, and, with the trustees elected by said corporation, shall have the management of the business and property of said corporation and the general supervision of its cottages. The trustees of said corporation shall annually prepare and send to the state board of insanity a written or printed report of all its proceedings, income and expenditures, properly classified, for the year ending on the thirtieth day of November, stating the amount expended under any appropriation from the general court, the whole number and average number of beneficiaries, the number and salaries of offi-

Hospital Cottages for Children, trustees.
Annual report.
R. L. 87,
§§ 124, 125.

cers and persons employed, and such other information as said board may require.

Children to be
sent to.
R. L. 87, § 126.

SECTION 67. The state board of insanity may send to and keep at said Hospital Cottages for Children such number of children afflicted with epilepsy as shall be approved by the trustees and superintendent thereof, to be maintained at such expense to the commonwealth as shall be determined by said state board and said trustees.

TRANSFERS, BOARDING OUT AND DISCHARGES. — SECTIONS 68–81.

Transfer of
inmates by
governor.
R. L. 87, § 85.

SECTION 68. The governor may at any time cause an inmate of a state institution under the supervision of the state board of insanity to be removed to another such institution, as the circumstances or the necessities of the case may in his judgment require.

Transfers by
state board.
R. L. 85,
§§ 42, 43.
R. L. 87,
§§ 58, 66, 87–
89, 92, 123.
1904, 278, § 1.
1905, 400.
1906, 352;
508, § 8.
1907, 432.

SECTION 69. The state board of insanity may, subject to the provisions of section seventy, transfer to and from any institution or receptacle under its supervision, any inmate thereof who, in the opinion of the board, is a proper subject for admission to the institution or receptacle to which he is to be transferred: *provided*, that no such inmate shall be transferred to be detained as an insane person unless he shall have been duly committed as insane by a judge or court: and *provided, further*, that no person shall so be transferred to the Bridgewater state hospital unless he has been a criminal and vicious in his life. A record of such transfer shall be entered in the registers of the institutions to and from which he is transferred. The commitment papers, together with an abstract of his hospital case-record, shall be transmitted with him to the institution to which he is transferred. The board may also remove any pauper inmates of institutions under its supervision who are not subject to the orders of a court to any country, state or place where they belong. In making such transfers and removals the board shall, so far as is practicable, employ nurses or attendants instead of officers of the law, and shall employ female nurses or attendants to accompany female patients.

Transfers from
and to private
hospitals.
R. L. 87, § 90.

SECTION 70. The said board shall not transfer any person to or from a private institution except upon the application of the superintendent or manager of such institution and of the legal or natural guardian of such

person, nor transfer any voluntary inmate of any institution, public or private, except with his written consent.

SECTION 71. Any patient in an institution, public or private, used wholly or in part for the care of the insane, who is quiet and not dangerous nor committed as a dipsomaniac or inebriate, nor addicted to the intemperate use of narcotics or stimulants and who is under the supervision of the state board of insanity, may be placed by said board if it considers it expedient, at board in a suitable family or place in the commonwealth or elsewhere. Any such patient in a public institution used wholly or in part for the care of the insane may so be boarded by the trustees thereof, and such boarder shall be deemed to be an inmate of the institution. The cost to the commonwealth of the board of such paupers shall not exceed three dollars and twenty-five cents a week for each person.

Boarding in families.
R. L. 87, § 102.
1905, 458, § 1.

SECTION 72. The bills for the support of persons who are boarded in families by the state board of insanity shall be payable monthly, by the commonwealth and shall be audited by said board, which shall, at the end of each month, present to the auditor a schedule of all such bills as have been incurred, and shall keep a register in such form that the auditor shall be able to verify the schedule.

Bills for board.
R. L. 87, § 103.
1905, 458, § 2.

SECTION 73. The state board of insanity shall cause all persons who are boarded by it in families at public expense to be visited at least once in three months, and all persons who are boarded in families at public expense by the trustees of any institution authorized to board out its inmates to be visited once in six months, by an agent of said board. The trustees of every institution authorized to board out its inmates shall cause all persons who are so boarded by them in families at public expense to be visited at least once in three months, and shall inform the state board of insanity of the location of every such boarder, and shall furnish such other information as the board may require.

Visitations by board.
R. L. 87, § 104.
1905, 458, § 3.

SECTION 74. Said state board shall cause to be removed to an institution used wholly or in part for the care of the insane or to a better boarding place all persons who, upon visitation, are found to be abused, neglected or improperly cared for when boarded out in families. Said board may permit any boarder temporarily to leave custody as an insane person in charge of his

Removal of neglected persons; temporary absence.
R. L. 87, § 105.
1905, 458, § 4.

guardian, relatives, friends or by himself, for a period not exceeding one year, and may receive him again into such custody when returned by such guardian, relatives, friends or upon his own application, within such period, without any further order of commitment, and may during such temporary absence assist in his maintenance to an amount not exceeding three dollars and twenty-five cents a week.

Temporary
absence by
permission.
R. L. 87,
§§ 60, 95,
1905, 435.

SECTION 75. The superintendent or manager of any hospital or receptacle described in section seven may permit any inmate thereof temporarily to leave such institution in charge of his guardian, relatives, friends, or by himself, for a period not exceeding six months, and may receive him when returned by any such guardian, relative, friend, or upon his own application, within such period, without any further order of commitment. The superintendent may require as a condition of such leave of absence, that the person in whose charge the patient is permitted to leave the institution shall make reports to him of the patient's condition. Any such superintendent, guardian, relative or friend may terminate such leave of absence at any time and authorize the arrest and return of the patient. The officers mentioned in section eighty-six shall cause such a patient to be arrested and returned upon the request of any such superintendent, guardian, relative or friend. Any patient who has not returned to the institution at the expiration of six months shall be deemed to be discharged therefrom.

Discharge of
inmates by
trustees, or
court.
R. L. 87,
§§ 86, 91-94,
96.
1908, 503, § 15.

SECTION 76. The superintendent or manager of a private institution or receptacle described in section seven, the superintendent of such a state institution and of the McLean Hospital, when authorized thereto by the board of trustees of such institution, or the trustees, or the state board of insanity, or on an application in writing, a judge of probate for the county in which the institution is situated, or in which the inmate had his residence at the time of his commitment or admission, or a justice of the supreme judicial court in any county, after such notice as the said superintendent, manager, trustees, state board, judge or justice may consider reasonable and proper, may discharge any inmate if it appears that he will be sufficiently provided for by himself, his guardian, relatives or friends, or that his detention therein is no longer neces-

sary for his own welfare or the safety of the public. If the legal or natural guardian or any relative of an inmate opposes such discharge, it shall not be made by a superintendent, manager or board of trustees without written notice having been given to the person opposing such discharge. The provisions of this section shall not apply to persons committed by a court.

SECTION 77. No unrecovered inmate who is known to have committed or attempted violence to others, or who in the opinion of the superintendent or manager is, or is likely to become, dangerous to others, shall be discharged from or permitted to leave an institution or receptacle under the provisions of the two next preceding sections by the trustees, superintendent or manager without the approval in writing of the state board of insanity. The board shall not grant such approval unless the superintendent or manager shall have submitted to it a written report containing a full statement of the case and of his reasons for his opinion whether or not the patient is or is likely to become dangerous to others, and such other information as the board may require, nor unless the board is satisfied by such report or by its own investigation that such inmate is not and is not likely to become dangerous to others, or if so dangerous, that sufficient precautions will be taken to protect the public safety. The board may, if it cannot agree with such superintendent or manager, file a petition for instructions in the probate court for the county in which the institution is situated, which may in its discretion order such inmate to be brought before it and cause him to be examined by one or more experts in insanity, and shall determine whether or not he is or is likely to become dangerous to others, and if so dangerous, whether sufficient precautions will be taken to protect the public safety, and may order him to be discharged or returned to such institution or receptacle. Copies of all reports, decisions, findings and evidence connected with the case shall be transmitted to the institution and made a part of the case-record of such inmate. Reasonable expense incurred by the probate court in such examination shall be approved by the court and paid by the commonwealth.

Discharge of inmates by state board, etc.

SECTION 78. Any person may make written application to a justice of the supreme judicial court at any

Application for discharge.
R. L. 87, § 97.

time and in any county, stating that he believes or has reason to believe that a person named in such application is confined as an insane person in a hospital for the insane or other place, public or private, and ought not longer to be so confined, and giving the names of all persons supposed to be interested in keeping him in confinement, and requesting his discharge.

Notice to
superin-
tendent;
further
proceedings.
R. L. 87, § 98.

SECTION 79. The justice, upon reasonable cause shown for a hearing, shall order notice of the time and place thereof to be given to the superintendent or manager of the hospital or place of confinement, and to such other persons as he considers proper; and such hearing shall be given as soon as conveniently may be before any justice of said court in any county. The alleged insane person may be brought before the justice at the hearing upon a writ of habeas corpus, if any person so requests and the justice considers it proper. Pending the decision of the court such person shall remain in the custody of the superintendent or manager. An issue or issues may be framed and submitted to a jury by direction of the justice or on the request of any person who appears in the case. The jurors may be those in attendance on said court, if in session at the time of the hearing, or may be summoned for the purpose upon the order of the justice substantially in accordance with the provisions of chapter one hundred and seventy-six of the Revised Laws.

If not insane or
dangerous, to
be discharged.
R. L. 87, § 99.

SECTION 80. If it appears upon the verdict of the jury, or in the opinion of the justice, if the case is not submitted to a jury, that the person so confined is not insane, or that he is not dangerous to himself or others and ought not longer to be so confined, he shall be discharged from confinement.

Clothing, etc.,
to be furnished
on discharge.
R. L. 87, § 101.

SECTION 81. No pauper inmate of a state institution for persons described in section seven shall be discharged therefrom without suitable clothing; and the trustees may furnish the same at their discretion, and such amount of money, not exceeding twenty dollars, as they may consider necessary. Inquiry shall be made into the future situation of every patient about to be discharged, and precautionary medical advice shall be given to him. No patient shall be discharged or temporarily absent from any institution for the insane without a personal examination of

his mental condition made by one of the hospital physicians within forty-eight hours of his departure, the result of which shall be entered in his case-record.

SUPPORT. — SECTIONS 82, 83.

SECTION 82. The price for the support of inmates, other than state charges, of the institutions mentioned in section fourteen, and of the Massachusetts School for the Feeble-Minded, shall be determined by the trustees of the respective institutions. The price for the support of state charges shall be determined by the state board of insanity at a sum not exceeding five dollars per week for each person, and may be recovered by the treasurer and receiver-general from such persons if of sufficient ability, or from any person or kindred bound by law to maintain them. The attorney-general shall upon request of the said board bring action therefor in the name of the treasurer and receiver-general.

Price of support.
R. L. 87,
§§ 75-80, 120.
1905, 354.
1906, 508, § 17.
1908, 613, 629.

SECTION 83. If it appears to the state board of insanity that a town having a taxable valuation of less than five hundred thousand dollars in the valuation of polls and estates established by the general court is, or since the first day of January in the year nineteen hundred and four has been, lawfully charged with the maintenance of inmates of any hospital or receptacle under the supervision of the said board, by reason of such inmate having a legal settlement in such town, the expense thereof may be repaid to the town by the commonwealth, in whole or in part, as the board may determine.

Reimbursement of small towns for maintenance.
R. L. 87, § 81.
1905, 282.

PRIVILEGES OF PATIENTS. — SECTIONS 84, 85.

SECTION 84. An attorney-at-law regularly retained by or on behalf of any person committed to an institution under the supervision of the state board of insanity shall be admitted to visit his client at all reasonable times, if in the opinion of the superintendent or manager of the institution such visit would not be injurious to such person, or if a justice of the supreme judicial court or of the superior court or a judge of probate in any county first orders in writing that such visit be allowed.

Attorneys may visit clients.
R. L. 87, § 82.

SECTION 85. All patients in any institution under the supervision of the state board of insanity shall be

Patients may write to state board.
R. L. 87, § 83.

allowed, subject to the regulations of the board, to write freely to the board, and letters so written shall be forwarded, unopened, by the superintendent or person in charge of the institution to said board for such disposition as it shall consider right; and the board may send any letters or other communications to any patients in any of said institutions whenever it may consider it proper so to do. All other letters to or from the patient may be sent as addressed or to his legal or natural guardian or most interested friend.

ESCAPES AND INTERSTATE RENDITION. — SECTIONS 86–90.

Escapes;
arrest.
R. L. 87, § 61.

SECTION 86. An inmate of any hospital or receptacle described in section seven, who escapes therefrom, may be arrested and returned thereto by an officer, qualified to serve criminal process in any county, or by any officer or employee of such hospital or receptacle. The superintendent of the police of Boston, city marshals and chiefs of police of cities or towns, upon information from the superintendent or manager of such hospital or receptacle, of such an escape, shall cause the person so escaping to be arrested and returned to the hospital or receptacle, if he is within such city or town, at the expense of the institution.

Rendition of
insane persons.
Cf. R. L. 217,
§ 13.

SECTION 87. The governor may upon demand deliver to the executive of any other state or territory any person who has escaped from an institution for the insane, public or private, to which he has been committed under the laws of such state or territory, and who may be dangerous to the safety of the public, or may upon application appoint an agent to demand of the executive authority of any other state or territory any such person who has escaped from such an institution in this commonwealth. Such demand or application shall be accompanied by an attested copy of the commitment and sworn evidence of the superintendent or keeper of the institution stating that the person demanded has escaped from such institution, and by such further evidence as the governor may require.

Warrant to
issue.
Cf. R. L. 217,
§ 13.

SECTION 88. If the governor is satisfied that the demand conforms to law and ought to be complied with, he shall issue his warrant under the seal of the commonwealth to an officer authorized to serve warrants in crimi-

nal cases, directing him at the expense of the agent who makes the demand, at a time designated in the warrant, to take and transport such person to the boundary line of this commonwealth and there deliver him to such agent. The officer may require aid as in criminal cases.

SECTION 89. A person who is arrested upon such a warrant shall not be delivered to the agent of a state or territory until he has been notified of the demand for his surrender and has had an opportunity to apply for a writ of habeas corpus, if he claims such right of the officer who makes the arrest. If the said writ is applied for, notice thereof and of the time and place of hearing shall be given to the attorney-general or district attorney for the district in which the arrest is made. An officer who delivers such person in his custody upon such warrant to such agent for extradition without having complied with the provisions of this section shall forfeit not more than one thousand dollars. Pending the determination of the court upon an application for the said writ, the person shall be detained in custody in a suitable hospital for the insane.

Writ of
habeas corpus.
Cf. R. L. 217,
§ 14.

SECTION 90. If the application for the arrest of a patient escaped from an institution, public or private, in this commonwealth, is complied with and an agent is appointed, his account shall be paid by the institution from which the patient escaped, but the governor may direct the whole or part of such account to be paid by the commonwealth.

Fees.
Cf. R. L. 217,
§ 15.

CRIMINAL OFFENCES. — SECTIONS 91–94.

SECTION 91. A physician who wilfully conspires with a person unlawfully or improperly to commit to a hospital for the insane a person who is not insane shall be punished by a fine or imprisonment, at the discretion of the court.

Penalty for
conspiracy.
R. L. 87, § 56.

SECTION 92. A superintendent, manager, officer or nurse or other person employed in a hospital or receptacle described in section seven, or any person having charge of an insane, feeble-minded or epileptic person, whether by reason of any contract or of any ties of relationship or marriage or otherwise, who illtreats or wilfully neglects such person, shall be punished by a fine or imprisonment at the discretion of the court.

Penalty for ill-
treatment, etc.

Penalty for
assisting
escapes, etc.

SECTION 93. A superintendent, manager, officer or nurse or other person employed in a hospital or receptacle described in section seven who wilfully permits or assists or connives at the escape of a patient, and any person who secretes a patient, shall be punished by fine or imprisonment, at the discretion of the court.

Penalty for
furnishing
intoxicating
liquors to
inmates.
1903, 410.
1905, 400.

SECTION 94. Whoever gives, sells or delivers spirituous or intoxicating liquor to a patient of any state institution under the supervision of the state board of insanity or to a patient under the control of any of the said institutions, except under the direction of a physician of the institution, and whoever has in his possession within the precincts of any of the said institutions any such liquor with intent to convey or deliver it to any patient thereof except under direction as aforesaid, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than two months.

APPROPRIATIONS. — SECTIONS 95–97.

Annual ap-
propriations.
R. L. 87, § 127.
1905, 175, § 1.
1908, 597, § 1.

SECTION 95. Annual appropriations in addition to unexpended receipts shall be made for the maintenance of each of the institutions mentioned in section fourteen and of the Massachusetts School for the Feeble-Minded. All accounts for the maintenance of the above named institutions shall be approved by the trustees and filed with the auditor of the commonwealth at the end of each month, and shall be paid out of the treasury of the commonwealth. Full copies of the pay rolls and bills shall be kept at each institution, but the originals shall be deposited with the auditor as vouchers.

Disposition of
receipts.
R. L. 87, § 128.
1905, 175, § 2.

SECTION 96. All money received by the said institutions shall be paid into the treasury of the commonwealth as often as once in each month. The receipts from each institution shall be placed to its credit and shall be used for its maintenance during the following year.

Application of
two preceding
sections.
R. L. 87, § 129.
1905, 175, § 3.

SECTION 97. The provisions of the two preceding sections shall not affect the power of the trustees of the said institutions under the provisions of section sixteen of this act or of chapter one hundred and fifty of the acts of the year eighteen hundred and fifty, and acts in amendment thereof, nor their right to regulate or control the expenditure of any funds held by them under the provisions of the said acts.

SECTION 98. The name of the state hospital is hereby changed to State Infirmary, and the name of the state asylum for insane criminals is hereby changed to Bridgewater State Hospital.

State Infirmary.
St. 1900, 333.
Bridgewater State Hospital.
1886, 219, § 1.
1895, 390,
§§ 1, 2.
R. L. 85, § 41.

APPOINTMENT OF GUARDIAN.

SECTION 99. If the relatives or friends of an insane person, or the mayor and aldermen of a city or the selectmen of a town in which he is an inhabitant or resident, or the state board of insanity, apply to the probate court to have a guardian appointed for him, the court shall cause not less than seven days' notice of the time and place appointed for the hearing to be given to him and to the state board of insanity, except that the court may, for cause shown, direct that a shorter notice be given to him and to the said board, and if after a hearing the court finds that he is incapable of taking care of himself, it shall appoint a guardian of his person and estate. A copy of such appointment shall be sent by mail by the register to the said board. If in the opinion of the court additional medical testimony as to the mental condition of the person alleged to be insane is desirable, it may require such person to submit to examination, and may appoint one or more physicians, expert in insanity, to examine such person and report their conclusions to the court. Reasonable expense incurred in such examination, shall be paid out of the estate of such person, or by the county, as may be determined by the court.

Appointment of guardian of insane person.
1693-4, 18.
1726-7, 12, § 1.
1731-2, 14, § 1.
1737-8, 9, § 1.
1783, 38, § 2.
R. S. 79, § 9.
G. S. 109, § 8.
P. S. 139, § 7.
R. L. 145, § 6.
8 Mass. 129.
12 Mass. 505.
5 Pick. 490.

APPOINTMENT OF TEMPORARY GUARDIAN.

SECTION 100. Upon the petition of the mayor of a city, the selectmen of a town, the overseers of the poor of a city or town, the state board of insanity, or other person in interest, the court may, if it finds that the welfare of a minor, insane person, or spendthrift requires the immediate appointment of a temporary guardian of his person and estate, appoint a temporary guardian of such minor, insane person, or spendthrift, with or without notice, and may in like manner remove or discharge him or terminate the trust. A temporary guardian may proceed and continue in the execution of his duties, notwithstanding an appeal from the decree appointing him, until it is

Temporary guardian, appointment of.
1878, 230.
P. S. 139, § 6.
1897, 135, § 1.
1900, 345,
§§ 1, 3.
1901, 213, 523.
179 Mass. 133.
R. L. 145, § 20.

otherwise ordered by the supreme judicial court, or until the appointment of a permanent guardian, or until the trust is otherwise legally terminated.

ALLOWANCE OF GUARDIAN'S ACCOUNT.

SECTION 101. No final account or discharge of a guardian of an insane person shall be allowed under the provisions of chapter one hundred and forty-five of the Revised Laws, unless at least seven days' notice of the petition therefor has been given to the state board of insanity.

NOTICE OF GUARDIAN'S PETITION FOR LICENSE TO SELL.

SECTION 102. A license to sell shall not be granted to the guardian of a spendthrift who resides in this commonwealth, or of an insane person, unless seven days' notice of the petition therefor has been given to the overseers of the poor of the city or town in which the spendthrift resides, or to the state board of insanity in the case of an insane person. Such notice may be served upon any one of said overseers or board.

COMMITMENT OF PERSONS UNDER INDICTMENT TO A STATE INSANE HOSPITAL.

SECTION 103. If a person under complaint or indictment for any crime, is, at the time appointed for trial or sentence, or at any time prior thereto, found by the court to be insane or in such mental condition that his commitment to a hospital for the insane is necessary for the proper care or observation of such person pending the determination of his insanity, the court may commit him to a state hospital for the insane under such limitations as it may order. The court may in its discretion employ one or more experts in insanity, or other physicians qualified as provided in section thirty-two, to examine the defendant, and all reasonable expenses incurred shall be audited and paid as in the case of other court expenses. A copy of the complaint or indictment and of the medical certificates attested by the clerk shall be delivered with such person in accordance with the provisions of the said section. If a person so removed is in the opinion of the trustees and superintendent of the hospital restored to

License to guardian of insane person, etc., only after notice to overseers of poor.
1806, 102.
1818, 112, § 1.
1826, 64.
1830, 140, § 1.
R. L. 146, § 13.

Disposition of insane prisoner.
1891, 379, § 12.
Insane prisoner to be sent to hospital.
1849, 68.
G. S. 172, § 14.
P. S. 214, § 16.
R. L. 219, §§ 11, 12.
Certain persons under indictment may be committed to a state insane hospital.
St. 1904, 257.

sanity, he shall forthwith be returned to the jail or custody from which he was removed, where he shall be held in accordance with the terms of the process by which he was originally committed or confined.

COMMITMENT OF PERSON ACQUITTED OF MURDER, ETC., BY REASON OF INSANITY.

SECTION 104. If a person who is indicted for murder or manslaughter is acquitted by the jury by reason of insanity, the court shall order him to be committed to a state hospital for the insane during his natural life, and he may be discharged therefrom by the governor, with the advice and consent of the council, when he is satisfied after an investigation by the state board of insanity that such person may be discharged without danger to others.

Commitment of person acquitted of murder, etc., by reason of insanity.
1873, 227.
P. S. 214.
§§ 20, 21.
1895, 390, § 7.
136 Mass. 489.
R. L. 219, § 16.

EXAMINATION OF ALLEGED INSANE PRISONERS.

SECTION 105. The state board of insanity shall designate two persons, experts in insanity, to examine prisoners in the state prison, the Massachusetts reformatory, or the reformatory prison for women, who are alleged to be insane. If any such prisoner appears to be insane, the warden or superintendent shall notify one or both of the persons so designated, who shall, with the physician of the prison, examine the prisoner and report the result of their investigation to the superior court of the county in which the prison is situated. If, upon such report, the court considers the prisoner to be insane and his removal expedient, it shall issue a warrant, directed to the warden or superintendent, authorizing him to cause the prisoner, if a male, to be removed to the Bridgewater state hospital and, if a female, to be removed to one of the state hospitals for the insane, there to be kept until, in the judgment of the superintendent and the trustees of the hospital to which the prisoner has been committed, he or she should be returned to prison. When the superintendent and trustees determine that the prisoner should be so returned, they shall so certify upon the said warrant, and notice, accompanied by a written statement regarding the mental condition of the prisoner, shall be given to the warden or superintendent of the prison, who shall there-

Removal of insane prisoners from State prison and reformatories.
1844, 120.
1856, 135.
G. S. 180.
§§ 1-3.
1862, 8.
1880, 250, § 5.
P. S. 222.
§§ 10, 11.
1885, 320.
§§ 1, 2.
1886, 101, § 4.
1895, 390, § 3.
1898, 433.
§§ 24, 28.
173 Mass. 550.
(1 Op. A. G. 113).
R. L. 225, § 101
Removal of insane prisoners, etc.
195 Mass. 45.
St. 1906, 472.

upon cause the prisoner to be reconveyed to the prison, there to remain pursuant to the original sentence, computing the time of his detention or confinement in the hospital as part of the term of his imprisonment. The person who makes such examination of the prisoner shall, if he is not a salaried officer of the state board of insanity, receive four dollars for each examination and twenty cents for each mile travelled one way, which shall be paid from the annual appropriation of the prison in which the prisoner is examined.

Removal of
insane prison-
ers, etc., in
other prisons.
R. S. 145,
§§ 1, 2.
1853, 259.
G. S. 180,
§§ 4, 5.
1880, 250, § 6.
P. S. 222,
§§ 12, 13.
1895, 390, § 3.
195 Mass. 45.
R. L. 225, § 102.

SECTION 106. If a prisoner under sentence in a jail, house of correction, or prison other than those named in the preceding section, appears to be insane, the physician in attendance shall make a report thereof to the jailor or master who shall transmit the same to one of the judges mentioned in section twenty-nine. If the judge finds, in accordance with the provisions of sections eleven, twenty-nine and thirty, that the prisoner is insane and that his removal is expedient, he shall order his removal to the Bridgewater state hospital or to any of the other state hospitals for the insane, if in the opinion of the judge the prisoner has not been criminal or vicious in his life, pursuant to the provisions of the said sections: *provided*, that no female shall be removed to the Bridgewater state hospital. A physician, other than the physician in attendance at the place of detention, making the certificate, shall be entitled to the compensation provided by section forty-eight. If a person so removed is in the opinion of the trustees and superintendent of the hospital restored to sanity, he shall forthwith be returned to the prison or house of correction from which he was removed, there to remain pursuant to the original sentence computing the time of detention or confinement in the hospital as part of the term of imprisonment.

SECTION 107. Sections forty-two, forty-three and forty-four of chapter eighty-five, chapter eighty-seven and amendments thereof, section six of chapter one hundred and forty-five as amended by section one of chapter one hundred and sixty-nine of the acts of the year nineteen hundred and seven, section twenty of chapter one hundred and forty-five, section thirteen of chapter one hundred and forty-six, sections eleven and twelve of chapter two hundred and nineteen as amended by chapter two

hundred and fifty-seven of the acts of the year nineteen hundred and four, section sixteen of said chapter two hundred and nineteen, section one hundred and one of chapter two hundred and twenty-five as amended by section one of chapter four hundred and seventy-two of the acts of the year nineteen hundred and six, and sections one hundred and two and one hundred and three of chapter two hundred and twenty-five of the Revised Laws; chapter five hundred and forty-two of the acts of the year nineteen hundred and two; chapters three hundred and twenty-one, four hundred and four hundred and ten of the acts of the year nineteen hundred and three; chapters two hundred and eighty-two, three hundred and fifty-four and four hundred of the acts of the year nineteen hundred and five; chapters three hundred and nine, three hundred and thirteen, three hundred and sixteen and sections one, two, three, four, five, six, seven, eight, twelve, thirteen, fourteen, fifteen, sixteen and seventeen of chapter five hundred and eight of the acts of the year nineteen hundred and six; chapters four hundred and thirty-two and four hundred and eighty-nine of the acts of the year nineteen hundred and seven; and sections one, two and four of chapter six hundred and thirteen, and chapter six hundred and twenty-nine of the acts of the year nineteen hundred and eight, and all acts and parts of acts inconsistent herewith, are hereby repealed.

SECTION 108. The provisions of this act, so far as they are the same as those of existing laws, shall be construed as a continuation of such laws and not as new enactments; and the repeal by this act of any provision of law shall not revive any law heretofore repealed or superseded; it shall not affect any act done, liability incurred, or any right accrued and established, or any suit or prosecution, civil or criminal, pending or to be instituted, to enforce any right or penalty or punish any offence under the authority of the repealed laws; and any person who at the time when said repeal takes effect holds office under any of the laws repealed shall continue to hold such office according to the tenure thereof.

SECTION 109. This act shall take effect on the first day of July in the year nineteen hundred and nine.

Construction
of act.

When to take
effect.

